

Minutes of: CALIFORNIA STATE ATHLETIC COMMISSION
Meeting Specifics: Regular Commission Meeting
August 14, 2003 – 9:00 a.m.
The Irvine City Hall
One Civic Center Plaza
Irvine, CA 92606-5208

1. CALL TO ORDER BY CHAIRMAN

Commissioners Present: Van Gordon Sauter, Chairman
Sanford Michelman, Vice-Chairman
Christopher Mears
John Frierson

Commissioner Absent: Al Ducheny
Armando Vergara
Gene Massey

Staff Present: Rob Lynch, Executive Officer
Dean Lohuis, Chief Athletic Inspector
Earl Plowman, Deputy Attorney General
Anita Scuri, DCA Legal Counsel
Rebecca Alvarez, Staff Services Analyst / Inspector
Jessica Finch, Recording Secretary

* Please note the following:

- 1) The items were heard in the following order: 5.2-5.3-5.4-5.5-5.6-5.7-5.1-7.1-7.2 & 7.3-9-11-8-18.1-18.3-18.2-22-14.
- 2) The Commission did not attain a quorum until 9:45 a.m. when Vice-Chairman Michelman and Commissioner Frierson's arrived.
- 3) The Commission did not maintain a quorum after 11:35 a.m. due to Chairman Sauter's absence.

2. APPROVAL OF JUNE 13, 2003 COMMISSION MEETING MINUTES - ACTION

This item was not heard.

3. SUMMARY OF CHAIRMAN ACTIVITIES SINCE LAST MEETING

This item was not heard.

4. SUMMARY OF EXECUTIVE OFFICER ACTIVITIES SINCE LAST MEETING

This item was not heard.

5. LICENSING APPROVALS – NEW APPLICATIONS - ACTION

5.1 Lupe Alcorta – dba KO Productions Professional Boxing Promoter - Original

Mr. Lynch informed the Commission that Ms. Alcorta originally applied for a professional boxing promoter license in 2000 and promoted two events using the temporary license. This is Ms. Alcorta's first appearance before the Commission as she is applying for an original 2003 promoter license. KO Productions held their first event of 2003 on July 19, 2003 in Maywood. The show was well attended and staff experienced no problems. It should be noted that Ms. Alcorta has a history of "bouncing" checks. On August 23, 2000 Ms. Alcorta wrote insufficient funds checks to the Commission and the insurance carrier who supplied the boxers' medical insurance. Commission staff made a claim on KO Production's bond to recover these amounts. It was also brought to staff's attention that Ms. Alcorta "bounced" the medical insurance check to the insurance carrier for the July 19, 2003 show.

Commissioner Mears then asked if the insufficient funds check to the insurance carrier resulted in the loss of insurance for the participants for the event. Mr. Lynch stated that it was his understanding that the insurance remained in effect. Commissioner Mears stated that it was his belief from experience that insurance carriers can object to claims made by the participants if the insurance carrier was not paid the premium. Mr. Lynch explained that it was his understanding that insurance remained in effect with the carriers assured that the Commission would collect payment. Commissioner Mears added that his concern is that a claim by a participant could be made before payment is made and the insurance carrier has the legal right to rescind coverage for nonpayment. Commissioner Mears then asked whose responsibility is it if the coverage is cancelled. Mr. Plowman stated that the bond would not be accessible for medical payments. Ms. Scuri added that Business and Professions Code 18684 states in part "The bonds required under this article shall guarantee, in order of priority, the payment of all taxes and fines due and payable to the state, the payment of contributions for medical insurance..." She explained that the insurance carriers would need to agree to have coverage remain in effect while the bond is being attached. Mr. Plowman stated that legislation would need to be drafted in order to accomplish what Commissioner Mears is suggesting.

Chairman Sauter then suggested that medical coverage insurance premium guarantee be placed on the agenda for the next Commission meeting.

Vice-Chairman Michelman stated that the "bounced" check issue needed to be addressed and that his inclination was to deny the license. Chairman Sauter then asked if there were unusual circumstances regarding the "bounced" checks. Mr. Lynch explained that staff has been in contact with the insurance carrier and the

check had not been satisfied as of the last conversation with the insurance carrier and that staff recommends that the license be denied and Ms. Alcorta may reapply in one year.

Ms. Alcorta explained that there was hold on a check paid to KO Productions making the funds unavailable. Vice-Chairman Michelman then asked who wrote the check to KO Productions. Ms. Alcorta stated that she did not know, and that her son handled the situation. Commissioner Mears asked Ms. Alcorta how many shows KO has held. Ms. Alcorta replied approximately 4 shows. Commissioner Mears then asked Ms. Alcorta if there were any shows in the near future planned. Ms. Alcorta stated that there is a show on September 27 scheduled. Commissioner Mears then asked if KO Productions was her chief source of income. Ms. Alcorta stated that she owned a restaurant. Vice-Chairman Michelman asked Ms. Alcorta what the circumstances surrounding the original “bounced” check in 2000. Ms. Alcorta stated there was confusion in transferring funds at that time but a new account was established just for KO Productions.

Commissioner Mears stated that his chief concern is the issue of the medical insurance. He stated that the Commission should look at whether or not this applicant is the type of person the Commission might think is likely to continue to have these types of problems. He stated he also has some reservations as to not allowing this applicant to continue. Vice-Chairman Michelman stated that from the information that has been provided to the Commission regarding the ripple effect of “bounced” checks, he is inclined to take a hard line with promoters who chose to issue checks without the funds being available.

Ms. Scuri stated that Commission has three options at this time: 1) grant the license 2) deny the license 3) make a determination in November (when the temporary license will expire).

Vice-Chairman Michelman then asked Ms. Alcorta if her son was in charge of the promotion. She stated that he indeed was. Vice-Chairman Michelman then informed Ms. Alcorta that although her son may be running the operations of the promotion, she is the applicant and is solely responsible. He then informed the Commission that he believed the license should be denied, and if the son was so inclined, he could apply for a license in his own name.

Mr. Plowman informed the Commission that based on the testimony of Ms. Alcorta the application should be denied as being fraudulent since Ms. Alcorta testified that her son is the person running the promotion. He agreed that if the son would like to promote, he should apply himself.

Action: Motion by Vice-Chairman Michelman and seconded by Commissioner Mears to deny the license of KO Productions and Lupe Alcorta.
Vote: Unanimous.

5.2 Frederick O. Lewis III – dba Big Time World Championship Boxing Professional Boxing Promoter – Original

Mr. Lynch stated that Mr. Lewis is applying for an original 2003 professional boxing promoter license. Big Time Championship Boxing met all of the licensing requirements and was issued a temporary promoter license on March 13, 2003. Mr. Lewis held his first promotion on May 13, 2003 at the Stockton Civic Auditorium. The event included a combination of amateur kickboxing and professional boxing. The bouts were evenly matched and the event was well attended. Staff experienced no unusual problems at this event. He further stated that staff recommends that Mr. Lewis be granted a 2003 professional boxing promoter license.

Ms. Scuri stated that in the Articles of Organization of the Limited Liability Company filed with the Secretary of State, in item 8 the answer to the type of business of the limited liability company it states “boxing and kickboxing shows – no license required”. She then asked Mr. Lewis to explain that answer, as a license is required. Mr. Lewis responded that he did not add the last comment of no license required and that the office staff at the Secretary of State had added that particular comment. Ms. Scuri asked Mr. Lewis if the staff person had asked him a question in regard to item 8 and then added the comment. Mr. Lewis responded that the staff person did not and that he noticed the comment after he had left the office.

Ms. Scuri then informed the Commission that there is an additional concern regarding the financial statement. She stated that Mr. Lewis had no supporting documents only a statement of Mr. Lewis and that there should be documents submitted preferably from an accountant to support Mr. Lewis’ statement. Mr. Lewis stated that when he filed his application with the Athletic Commission he had deposited enough funds to cover any issue the event might incur. He stated he had deposited \$40, 000 into the account of Big Time World Championship Boxing and Kickboxing, LLC. He added that he is the sole owner and president of Western American Development from which the funds came from. Mr. Plowman explained that the financial statement should reflect the assets and liabilities of the company as a limited liability company (balance sheet) by an accountant. Mr. Lewis explained that Big Time World Championship has no liabilities at this time and has only assets in cash. He further explained if any additional funds are needed that the LLC could borrow the funds from his parent company of Western American Development (WAD). Mr. Plowman informed him that if the LLC has borrowed the money from WAD then the loan would be a liability. Mr. Lewis stated that since he is the president of WAD, he has the power to forgive the loan. Ms. Scuri explained that the financial statement submitted is a statement from Mr. Lewis and is unverifiable. She then informed the Commission it would be appropriate to ask Mr. Lewis to submit a balance sheet of some sort from an accountant. Chairman Sauter then stated there is some vagueness as to the requirements of a financial statement from any promoter, not just Mr. Lewis. Chairman Sauter then stated that the Commission will be

discussing the exact nature of the financial statement later in the meeting. He further suggested that Mr. Lewis be granted his license pending the outcome of the financial statement discussions. Ms. Scuri agreed but stated that the license would be contingent upon the decision as to the financial statement requirements that will be set forth at this meeting. Mr. Lynch stated that in the past the requirement has been that the financial statement be prepared by a public or certified accountant. Mr. Plowman stated that in the business realm a verified financial statement is common. He added that the Commission gives some leeway to the individual, but corporations or companies are aware that the verified financial statement is the standard. Mr. Plowman stated that with the onslaught of promoters in the last few years having “bounced checks” issues, a more thorough financial statement should be mandatory. Commissioner Mears then asked if there had been an occasion when the \$20,000 bond was not sufficient to cover bounced check or unpaid debts. Mr. Lynch stated that it has not, although for major events the staff has required higher bonds to cover the additional costs that may result (higher purse amounts, etc.). Chairman Sauter then asked if Mr. Lewis would take issue with the delay of his promoter license by two weeks to supply the Commission with a financial statement that would be sufficient. Mr. Lewis replied that he objected to the delay. He explained that he had supplied all of the information required by staff. He added that he had brought with him a bank statement of WAD with monies in excess of six million dollars in which Mr. Lewis owns all of the stock in and those resources are available to Big Time World Championship. He stated that it is his belief that he has satisfied the financial requirements set forth by staff. Commissioner Mears then asked if Mr. Lewis employed an accountant to which Mr. Lewis replied that he does. Commissioner Mears suggested that a statement from an accountant that verifies the assets and liabilities of any applicant for a promoter’s license should be the standard. He further suggested that the subcommittee recommend to the Commission that Mr. Lewis’ license be approved contingent upon Mr. Lewis submitting a verified financial statement by an accountant on the financial matters that Mr. Lewis believes are relevant to his application. Chairman Sauter suggested that the approval be contingent upon the requirements that are established later in the meeting.

Action: **Motion by Chairman Sauter and seconded by Commissioner Mears to recommend to the Commission that Mr. Lewis be granted a 2003 professional boxing promoter license contingent on Mr. Lewis submitting a financial statement that satisfies the requirements that will be set forth at this meeting.**

(Vice-Chairman Michelman and Commissioner Frierson arrive to the meeting at this time)

Motion: **(After item 5.3 was heard the Commission reverted to item 5.2)**
Motion by Commissioner Mears and seconded by Chairman Sauter to grant a 2003 professional boxing promoter license to Mr. Lewis contingent on Mr.

Lewis submitting a financial statement that satisfies the requirements that will be set forth at this meeting.

Vote: Unanimous.

**5.3 Louis DiBella – dba DiBella Entertainment, Inc.
Professional Boxing Promoter - Original**

Mr. Lynch stated that Mr. Lamont Jones, Attorney at Law, will represent Mr. DiBella. Mr. Lynch informed the Commission that Mr. DiBella is applying for a 2003 professional boxing promoter license. DiBella Entertainment met all of the licensing requirements and was issued a temporary promoter license. His first promotion was a co-promotion with American Championship Sports on July 22, 2003 in Pismo Beach. Staff experienced no problems with this event. It should be noted that Mr. DiBella was heavily involved in HBO Boxing and he is licensed as a promoter in other states. Staff recommends that DiBella Entertainment be granted a 2003 professional boxing promoter license.

Ms. Scuri stated that the same issue of the financial statement applies to this promoter. (Chairman Sauter then explained to Vice-Chairman Michelman and Commissioner Frierson the issues of the financial statements and the conformity thereof). Mr. Plowman spoke with Mr. Jones separately and explained exactly the nature of the financial statement concern. Mr. Jones agreed to comply with the Commission requirement.

Action: Motion by Commissioner Mears and seconded by Chairman Sauter to grant DiBella Entertainment a 2003 professional boxing promoter license contingent on submission of a financial statement that satisfies the requirements that will be set forth at this meeting.

Vote: Unanimous.

**5.4 Ronald Smith – dba Return Of The Mac
Amateur Martial Arts Promoter - Original**

Mr. Lynch informed the Commission that Mr. Smith dba Return of the Mac is applying for a 2003 amateur martial arts (kickboxing) promoter license. Mr. Smith was issued a temporary promoter license on April 8, 2003 and held his first event on July 12, 2003 at the Crystal Palace Casino in Compton. Staff did not experience any problems; however, the show was not well attended. Staff recommends that Return of the Mac be granted a 2003 amateur martial arts promoter license.

Commissioner Frierson stated that he had attended this event and added that he felt that it was well attended and a well matched event.

Ms. Scuri explained that item 9 in the application was not answered. Ms. Finch handed Mr. Smith a copy of the application; Mr. Smith completed the item and handed it back to Ms. Finch.

Ms. Scuri added that this promoter should also comply with the financial statement requirements stated earlier.

Action: **Motion by Commissioner Mears and seconded by Commissioner Frierson to grant Return of the Mac a 2003 amateur martial arts promoter license contingent on submission of a financial statement that satisfies the requirements that will be set forth at this meeting.**

Vote: **Unanimous.**

**5.5 Richard Steele – dba Richard Steele Promotions, Inc.
Professional Boxing Promoter - Original**

Mr. Lynch informed the Commission that Mr. Steele, the former professional fighter, and referee, dba Richard Steele Promotions, Inc. is applying for a 2003 professional boxing promoter license. Mr. Steele was issued a temporary promoter license on May 1, 2003 and promoted his first event on July 24, 2003 at the Oxnard Performing Arts Center. Staff experienced no problems but the attendance was minimal. Staff recommends that Richard Steele Promotions, Inc. be granted a 2003 professional boxing promoter license.

Ms. Scuri stated that item 16 on the application was not answered and the application needed an original signature. She added that this promoter also has an issue in regard to the financial statement. Ms. Finch handed Mr. Steele a copy of the application on which Mr. Steele wrote an answer to item 16 and signed the application.

Action: **Motion by Commissioner Mears and seconded by Vice-Chairman Michelman to grant Richard Steele Promotions, Inc. a 2003 professional boxing promoter license contingent on submission of a financial statement that satisfies the requirements that will be set forth at this meeting.**

Vote: **Unanimous.**

**5.6 Heriberto Diaz – dba Seventh Promotions
Professional Boxing Promoter - Original**

Mr. Lynch informed the Commission that Mr. Diaz is applying for a 2003 professional boxing promoter license. Seventh Promotions met all of the licensing requirements and was issued a temporary promoter license on June 16, 2003. Mr. Diaz' first promotion was held on July 17, 2003 in Industry Hills. The only problem that staff encountered was that one check issued to one of the referee's "bounced". It should be noted that Mr. Diaz quickly made good on the

check. Staff recommends that Seventh Promotions be granted a 2003 professional boxing promoter license.

Mr. Diaz explained that a check that was written to him was deposited into the bank and the bank put a hold on releasing the funds to make them available for disbursement.

Action: Motion by Commissioner Mears and seconded by Vice-Chairman Michelman to grant Seventh Promotions a 2003 professional boxing promoter license contingent on submission of a financial statement that satisfies the requirements that will be set forth at this meeting.

Vote: Unanimous.

5.7 Rick Mello – dba Upfront & Undisputed Boxing Professional Boxing Promoter - Original

Mr. Lynch informed the Commission that Mr. Mello is applying for a 2003 professional boxing promoter license. He was issued a temporary promoter license and held his first event on June 13, 2003 at the San Jose Civic Auditorium. Staff experienced no problems; however, the attendance was sparse. Staff recommends that Upfront and Undisputed Boxing be granted a 2003 professional boxing promoter license.

Ms. Scuri stated that item 9 was not answered on the application. Ms. Finch handed Mr. Mello a copy of the application and Mr. Mello answered item 9.

Action: Motion by Commissioner Mears and seconded by Commissioner Frierson to grant Upfront & Undisputed Boxing a professional boxing promoter license.

Vote: Unanimous.

5.8 Gary Shaw – dba Gary Shaw Productions, LLC Professional Boxing Promoter - Original

Mr. Shaw did not attend.

5.9 Gary Shaw – dba Lion Promotions, LLC Professional Boxing Promoter - Original

Mr. Shaw did not attend.

6. PROFESSIONAL BOXERS' PENSION PLAN – BIENNIAL REPORT – INFORMATION / ACTION

This item was not heard.

7. APPEAL OF LICENSE REVOCATION – SUSPENSION - ACTION

7.1 Cliff Couser – License Revoked

Professional Boxer

Mr. Lynch informed the Commission that on July 11, 2003 Mr. Couser participated in a bout with Malcolm Tann in Rancho Mirage. Mr. Couser was disqualified by the referee for "body slamming" Mr. Tann at the conclusion of the first round and also for attempting to hit Mr. Tann while he was down. Following this display of total disregard for the rules of the Commission, Mr. Couser's actions resulted in the venue security having to eject him from the arena while still in his boxing trunks. As is the case with all disqualifications, the Commission withheld Mr. Couser's purse (\$7,500) pending disposition. Staff has a tape available of this bout for the Commission's review. Staff recommends that Mr. Couser be fined \$2,500, which is the statutory limit for Commission fines. Mr. Couser should also be suspended for a period of ninety days as of the July 11, 2003 fight date.

(Commission reviewed a videotape of the bout in question)

Mr. Jon Foster, Mr. Couser's manager, stated that although the tape does not completely show everything that was taking place, he and Mr. Couser will not make any excuses for Mr. Couser's actions. Mr. Foster stated that Mr. Couser understands that he was wrong. He further explained that Mr. Couser had many issues prior the bout such as personal situations and frustrations regarding the promotion of the bout, however; Mr. Couser does admit he was wrong. Mr. Foster stated that as his manager he has surrounded Mr. Couser with a support group that will not only support his boxing career but Mr. Couser's life all around. He stated that Mr. Couser's only source of income is boxing and they would like to ask for some compassion, so that Mr. Couser may participate in the sport as soon as possible. He further explained that while Mr. Couser is under his management, a situation such as this will not occur again.

Chairman Sauter then asked if Mr. Foster accepted the staff's current recommendation. Mr. Foster stated that they would like to ask for 60 days due to the fact that Mr. Couser is under financial hardship in not being able to participate in boxing. Mr. Foster added that Mr. Couser has the opportunity to fight overseas and would like to do so. He stated that Mr. Couser has a wife and three children that he is the sole support for and has already had to turn down five fights due to the current suspension including a bout versus Michael Moore. Commissioner Frierson stated that it was a televised bout and there were a lot of people watching the fight and now watching the Commission to see what they do. He stated that it is his recommendation that 60 days would be sufficient.

Chairman Sauter then asked if Mr. Foster was Mr. Couser's manager at the time of this bout. Mr. Foster responded that at this event, he (Mr. Foster) was a spectator who felt compassion for Mr. Couser and decided to "take him under his wing". He further explained that as his manager, he is concerned with Mr. Couser's personal life as well as his boxing career. He stated that Mr. Couser is involved in some educational programs as well as some counseling. Vice-

Chairman Michelman asked exactly when Mr. Foster became involved with Mr. Couser. Mr. Foster explained that after this occurred, Mr. Foster entered the ring and separated Mr. Couser and Mr. Tann. He then escorted Mr. Couser from the ring and subsequently from the venue. He explained that Mr. Couser had no funds, so Mr. Foster gave him enough money to make it home to Las Vegas, and asked him to call him the following day. He stated Mr. Couser called him the following day emphasizing his embarrassment for the previous night's behavior and asked Mr. Foster to help him. Mr. Foster stated that he and Mr. Couser agreed to a lengthy contract separate of any contract with the State and will be managing Mr. Couser's private life as well as his boxing career.

Mr. Chuck Hassett, a licensed judge, stated that he was present at this event and explained that it was a very chaotic situation. He stated that Mr. Couser had previously made the statement that if he were to be hit in the back of the head, he would take matters into his own hands. Mr. Hassett stated that Mr. Couser had to be restrained and that there was a lack of response from security, police department and officials ringside. He informed the Commission that even the officials ringside, including himself, did not enter the ring to assist the referee, Dr. James Jen Kin. He further stated that the chaos lasted approximately 4-5 minutes. Mr. Foster stated that it was not as chaotic as Mr. Hassett made it out to be. He stated that he was a spectator in the fourth row and was able to enter the ring and restrain Mr. Couser and remove him from the ring and the venue without being asked who he was. Vice-Chairman Michelman responded that Mr. Foster's statement only proves to him how chaotic it must have been if a spectator from the fourth row could easily enter the ring.

Chairman Sauter stated that Mr. Couser and Mr. Foster's sincerity and remorse personally impressed him. He stated that it is neither an ideal circumstance nor an ideal sport and believes in redemption. He further stated that he agreed with Commissioner Frierson to reduce the suspension time to 60 days. Commissioner Mears agreed that he was impressed with Mr. Couser and Mr. Foster's presentation and believes Mr. Couser to be sincere.

Mr. Foster stated that Mr. Couser would like to participate in a bout in the Ukraine on September 6 and would like to request the Commission to lift the suspension so that Mr. Couser may fight.

Action: Motion by Commissioner Frierson and seconded by Chairman Sauter to fine Mr. Couser \$2,500 and to suspend Mr. Couser until September 5, 2003.

Vote: Unanimous.

**7.2 John Clark – License Suspended
Professional Boxer**

**7.3 Jason Schlessinger – License Suspended
Manager**

Mr. Lynch informed the Commission that on April 22, 2003 Mr. Schlessinger signed a contract for his boxer, John Clark, to participate in a four round bout on May 23, 2002 for Big Time World Championship Boxing in Stockton, California. The purse was to be \$1,000 and the opponent was to be Carter Williams.

On May 18, 2003 Mr. Schlessinger notified the Stockton promoter that Mr. Clark was ill and would be unable to appear on the card. However, on May 21, 2003 Mr. Schlessinger signed a contract for Mr. Clark to fight in Montebello on May 23, 2003 (the same date as the Stockton fight) in a four round bout for a purse of \$1,400.

On May 22, 2003, while supervising the Stockton weigh-in, Mr. Lynch notified the Inspector supervising the Montebello weigh-in that Mr. Clark would not be permitted to fight in Montebello.

Staff recommends that Mr. Schlessinger's and Mr. Clark's licenses are reinstated effective September 1, 2003.

Mr. Clark apologized for the situation and miscommunication surrounding the circumstances and would like to provide an explanation. Mr. Schlessinger stated that two weeks prior to the Stockton bout, they notified the Stockton promoter that Mr. Clark was not feeling well and was not able to train. Mr. Schlessinger stated that he had purchased airline tickets in the amount of \$524 to be reimbursed by the promoter at the weigh-in. He further stated that a week prior to the fight Mr. Lewis was told that Mr. Clark was canceling the bout due to his illness. Commissioner Mears then asked if the promoter was able to replace Mr. Clark and if the bout went forward. Mr. Schlessinger stated that a replacement was found. He explained that Mr. Terry Claybon, a licensed promoter, and Mr. Ed Holmes, a matchmaker requesting Mr. Clark to fight contacted him the day of the weigh-in. He stated that he told them that Mr. Clark was ill but gave Mr. Clark's phone number to contact him directly. He further stated that Mr. Clark went to the weigh-in as a favor to Mr. Claybon. He explained that although it may seem that Mr. Clark got out of one contract to sign another, it is an incorrect assumption. He further explained that the tickets he purchased are non-refundable and make it a loss of \$124. Mr. Clark stated that he had no intention of leaving Mr. Lewis without a bout and apologized to him directly for the misunderstanding and stated that he hopes that Mr. Lewis will use him in the future.

Commissioner Mears stated that staff made a correct decision at the time. He agreed that if his intention was make money, the wrong decision was made since he had a loss of \$124.

Mr. Lewis stated that originally the contract was between Mr. Schlessinger and Mr. Lewis. He stated that after the agreement of the bout was made, Mr. Lewis received a bio for Mr. Clark from Mr. Schlessinger alleging that Mr. Clark was a

former San Francisco 49er football player. He stated that the media questioned this information a week prior to the bout and found it to be false. Mr. Lewis stated a week prior to the bout a reporter had told Mr. Lewis that Mr. Clark was ill and probably would not participate. He further explained that he did not know Mr. Clark was not going to participate until he was informed the day of the weigh-in by Mr. Schlessinger. He stated that it was most disturbing that Mr. Schlessinger did not contact further in advance that Mr. Clark was not going to participate.

Chairman Sauter then informed the Commission that he did recall the situation in which there was talk of a bout with a fighter who claimed to be a part of the San Francisco club, to which there was no truth. He then asked Mr. Clark to explain. Mr. Clark stated that he played football on three professional levels. He stated that he had played for a Canadian league, National Football League and the American Football League. He explained that he had never stated that he was a part of the San Francisco club and would not intentionally misrepresent himself.

Mr. Schlessinger then asked if the suspension could end sooner due to the fact that Mr. Clark would like to fight on August 22, 2003.

Action: **Motion by Commissioner Mears and seconded by Vice-Chairman Michelman to reinstate both licenses as of August 21, 2003.**

Vote: **Unanimous.**

8. ORDER TO SHOW CAUSE - ACTION

8.1 Sal Blanco – dba TKO Promotions Professional Boxing Promoter

(Mr. Blanco was sworn in by Mr. Lynch)

The following is the Petition for Order Suspending/Revoking License of Boxing Promoter:

BILL LOCKYER, Attorney General
Of the State of California
EARL R. PLOWMAN, State Bar No. 54339
Deputy Attorney General
California Department of Justice
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Attorneys for Petitioner

**BEFORE THE
ATHLETIC COMMISSION
OF THE STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Charges
Against:

TKO BOXING PROMOTIONS INC.
SALVADOR M. BLANCO, President
7035.N. Fruit Avenue
Fresno, California 93711-0716
Licensed Promoter No LC8100

Respondent. Case No.2003-3

**PETITION FOR ORDER SUSPENDING/REVOKING LICENSE OF
BOXING PROMOTER**

Petitioner alleges:

PARTIES

1. Rob Lynch (Petitioner) brings this action to suspend or revoke the above captioned Boxing Promoter's license solely in his official capacity as Executive Officer of the California State Athletic Commission (Commission), Department of Consumer Affairs, State of California.
2. On or about June 7, 1999, the Commission issued a permanent Boxing Promoter's license to TKO Productions, Inc. Salvador M. Blanco, President (Respondent) and original incorporator. The license has remained in effect and has been renewed for the 2003 licensing period..

JURISDICTION

3. This Petition to Revoke Probation is brought before the California State Athletic Commission, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

A. Section 18840 of the Code provides interalia if in the judgment of the commission the financial responsibility, experience, character and general fitness of an applicant for a license or renewal thereof, or any person connected with the applicant, are such that the participation of the applicant will be consistent with the public interest, convenience or necessity, and the best interests of boxing and martial arts generally, and in conformity with the rules or regulations adopted pursuant thereto, the commission may grant an unrestricted license or issue a license subject to terms and conditions.

B. Section 18841 of the Code provides: Notwithstanding any other provision of this code, licenses issued under this chapter may be revoked, suspended or placed on probation under terms and conditions including but not limited to, the making of restitution, for any violation or attempted violation of this chapter, any rule or regulation adopted pursuant thereto, or for any cause for which a license may be denied.

Such action shall be final, except that the propriety of such action is subject to review, upon questions of law only, by the superior court. The action of the commission shall stand unless and until reversed by the court.

C. Section 18842 of the Code provides, The commission, the executive officer and other employees duly authorized by the executive officer shall have the power to suspend temporarily, any license until final determination by the commission when, in his or her opinion, the action is necessary to protect the public welfare or is in the best interest of boxing or martial arts

The suspension may be without advance hearing but the suspended licensee may apply to the commission for a hearing on the matter to determine if the suspension should be modified or set aside. The application for hearing shall be in writing and shall be received by the commission within 30 days after the date of suspension. Upon receipt of such written request, the commission shall set the matter for hearing within 30 days.

D. Title 4, Division 2 Chapter 1 of the California Code of Regulations (CCR) sets forth the Rules duly adopted by the Commission. The following Rules are applicable herein.

1. Rule 232 provides in pertinent part that all contestants shall be paid in full according to their contracts, and no part or percentage of their remuneration may be withheld except by order of an official of the commission, nor shall any part thereof be returned through arrangement with the boxer, or his manager to any club official .

2. Rule 233 provides in pertinent part that all payment of purses shall be made immediately after the contest or exhibition, or, in the case of a percentage contract, immediately after the percentage is determined by the commission inspectors unless otherwise ordered by the commission. The club's authorized representatives shall, unless otherwise ordered by the commission's representative in the club office, deliver check or checks made out by the club as payer to all parties entitled to payment. The club shall take a receipt for all payments made by checks, and deliver a copy of such receipt to the

commission. The form of this payoff sheet shall be furnished by the commission and completed by the inspector.

3. Rule 390 provides in pertinent part that any licensee who violates the laws of the State of California, with the exception of minor traffic violations, or the rules of the Athletic Commission, or who fails or refuses to comply with a valid order of a commission representative, or who conducts himself or herself at any time or place in a manner which is deemed by the commission to reflect discredit to boxing, may be fined, suspended or otherwise disciplined in such manner as the commission may direct.

4. Rule 391 provides in pertinent part that the commission may suspend or revoke a license if it finds that at any time the licensee or any partner, officer, stockholder or employee thereof, in this state or elsewhere. . . is engaged in any activity or practices which are detrimental to the best interests of boxing.

CAUSE TO REVOKE OR SUSPEND

4. The license of Respondent Corporation is subject to revocation for conduct violating Rules 390 and 391 in that the President of Respondent, Salvador M. Blanco has engaged in conduct detrimental to the best interests of and bring discredit upon boxing by reason of the following conduct.

SUSPENSION BY THE STATE BAR OF CALIFORNIA

A. On or about November 21, 2002 in a matter before The State Bar Court of the Bar of California in a matter bearing consolidated case numbers 99-0-11009-JMR and 01-0-04625JMR, Salvador Blanco, then a member of the State Bar of California, had his license to practice law placed in inactive enrollment for the matters found to be true in the decision of the State Bar Court. A true and accurate copy of the order of the State Bar Court is attached hereto as Exhibit "A".

B. Salvador Blanco subsequently submitted a request to the Supreme Court of the State of California to be permitted to resign from the bar with charges pending in lieu of disbarment while under suspension.. This was accepted by the Supreme Court and made effective April 3, 2003. The acts of misconduct found to be true by the decision of the State Bar Court constitute conduct bringing discredit to boxing as does the separate and severable facts of both the suspension by the State Bar Court and the resignation with charges pending accepted by the California Supreme Court.

INSUFFICIENT FUNDS CHECKS

5. The license of TKO is further subject to suspension or revocation by the Commission for violation of Rules 390 and 391 in that on April 26, 2002 TKO produced a show at Table Mountain casino. Following said show, TKO issued a series of checks to boxers and officials, some of which were cashed at the casino, which were not backed by sufficient funds to pay the amounts indicated thereon. As a result of said misconduct, the Commission staff was required to spend considerable time contacting other participants in the show and the bonding company to compel payment of the monies due and owing.

IMPROPER STOP PAYMENT ON CHECKS

6. Respondent TKO is further subject to discipline by the Commission for violation of Rules 232 and 233 separately and in conjunction with violations of Rules 390 and 391 by reason of the following

A. On June 27, 2003 respondent TKO had a boxing show at the Selland Arena in Fresno, California. Following said show, Sal Blanco issued checks in accordance with the Commission pay sheet and witnessed by Commission inspectors, who verified the amounts paid with Sal Blanco, including a check written for \$600 more than the pay sheet indicated to be due and owing. TKO through Sal Blanco issued the following checks to the following persons

1. Check # 1139 to Fray Luis Sierra \$3163.50
2. Check # 1140 to Isidro Tejedor \$3708.50
3. Check #1163 to Pedro Velario \$500.00

B. On or after June 27, but prior to June 30, 2003, the checks were cashed by the respective payees at an entity in Miami, Florida, Foremost, Inc. who prior to doing so, verified their validity.

C. At a time after the checks were cashed by their named payees, but prior to the checks being honored by the bank where the TKO account was maintained, Sal Blanco stopped payment on the three checks. On June 30, 2003 Sal Blanco sent a facsimile message to Foremost telling them that the amounts on the checks were wrong and that the calculations on the Commission paysheets, which he approved on June 27th in Fresno were wrong.

D. The stopping of payment on checks in amounts previously approved by the Commission inspectors constitutes the non-payment of monies due and owing pursuant to a bout contract without Commission approval.

E. The action of Salvador Blanco in stopping payment to the detriment of Foremost, an innocent party, also constitutes separate misconduct in violation of Rules 390 and 301 in that it brings discredit on boxing.

PRAYER

WHEREFORE, Petitioner requests that the license of TKO Boxing Promotions be suspended pending a request for a hearing before the Commission on the matters herein alleged, and that following the hearing, if one is requested, the Commission issue a decision further suspending or revoking the boxing promoter's license issued to TKO Boxing Promotions, Inc. and

1. Ordering restitution of all damages suffered by Foremost, Inc.; and
2. Taking such other and further action as deemed necessary and proper.

DATED:
ROB LYNCH, Executive Officer
Department of Consumer Affairs
State of California
Petitioner

Mr. Plowman informed the Commission that Mr. Blanco is before the Commission regarding the recommendation that the license for TKO Promotions be permanently invalidated for conduct contrary to the best interest of boxing. He stated that there are three issues regarding this petition:

1) Finding of the State Bar regarding Mr. Blanco in regards to his default to the State Bar and the findings became final and Mr. Blanco secured an agreement with the California Supreme Court in which he surrendered his license to practice law in California.

2) An issue regarding a TKO Promotion at a casino outside of Fresno in which TKO Promotions was involved in a series of non-sufficient funds checks at that particular location. Those checks were subsequently made good by the co-promoters Mr. Don Chargin, a licensed promoter, who is in attendance.

3) An issue on June 27, 2003 promotion in which checks were issued by Mr. Blanco. Once the payoff sheets were completed by the Inspectors at the event and checks were signed for and issued, Mr. Blanco stopped payment on the checks. Three of the four checks were already cashed by a check cashing service in Miami, Florida. Mr. Blanco has offered to make good only on a portion of the checks because he felt that after the Commission had closed the books on this event that the amounts that were paid were in error.

Mr. Plowman stated that those are the charges before the Commission and staff alleges that as a result of this history TKO Boxing Promotions license should be removed.

Commissioner Mears then asked if the action before the Commission was to revoke the license or to suspend the license pending a subsequent hearing. Mr. Plowman stated that this was a request to revoke the license permanently.

Mr. Blanco stated that he would like to address each point that Mr. Plowman has raised individually. He stated that he has material that he would like to submit to the Commission. He stated that regarding the State Bar findings, it is correct that a case was brought forth and an agreement was accepted by the State Bar. He stated that it was an aberration and that he had been practicing law since 1987 and he has represented two or three thousand parties in that time. He stated that he takes full responsibility in that the conduct involved was of a fiduciary nature and

did not have any connection whatsoever with boxing. He explained that it occurred approximately in 1998. Commissioner Mears then asked what was the situation to which Mr. Blanco stated that it was a controversy with a client. He stated that the conduct involved \$15,000 with an attorney and the deal did not go forward and the client owed him approximately \$16,000. He stated that the client authorized him to pay himself and he did admit that he did not go through the normal procedure of having a written authorization from the client. He noted that he returned the balance of approximately \$34,000 and that was not an issue. He added that the client, to his knowledge, still believed that the \$16,000 is owed. He explained that he had worked two years and was not paid for his services. He stated that he is in the process of filing a civil suit for his fees and hopeful to recover or keep a portion that he is entitled to.

Commissioner Mears then asked if that was the matter before the Supreme Court and this is why he resigned. Mr. Blanco responded that it was, with charges pending. Commissioner Mears then asked why he resigned in light of those facts. Mr. Blanco stated that when you are a fiduciary, to use criminal law as an example, the defendant is innocent until proven guilty, but as a fiduciary the burden is on you to prove that you did not do anything wrong. He explained he knew that it was going to be likely based on what he did, which, "I whole heartily admit – again, I characterize it as an aberration". He stated that knew he would lose, and rather than have a characterization of being disbarred, he chose to resign and is able to seek reinstatement in four years.

Mr. Plowman then asked if Mr. Blanco is currently facing criminal charges stemming from that transaction. Mr. Blanco stated yes, indeed he is. Mr. Plowman asked if those charges are currently pending in Fresno County. Mr. Blanco replied yes. Mr. Blanco stated that it would probably be resolved on September 24, 2003 as a misdemeanor 'disturbing the peace'. Mr. Blanco added that is what he is currently working on, as difficult as that sounds.

Mr. Blanco stated that as the Commission stands as an adjudicatory body it is not necessarily required to follow devices which is precedent; however, the Commission should look at what it has done in prior decisions to the predictability and stability to it's decisions. He stated that he simply asks, under equal protection and subject to due process, that the Commission refer to what it has done in prior occasions, in Mr. Blanco's mind, as to conduct which has been worse than he has done. (Mr. Blanco then distributed a packet to the Commissioners with Commission minutes from a meeting in 2000). He explained that he has nothing against Mr. Bob Arum or Top Rank Promotion, but is bringing this up to support his position. (For the record, the Commissioners responded that they could not read the packet Mr. Blanco handed to them as it was illegible).

Chairman Sauter then asked him to explain the situation that occurred at the Table Mountain Casino. He stated that there were checks that had "bounced" and would like an explanation. Mr. Blanco stated that he did not write the checks in question

and that it was Ochoa Promotions who wrote the checks. He added that he assisted Mr. Ochoa because Mr. Blanco could not participate in the event due to a lawsuit involving one of the Tribal Chairpersons in 1998. He explained that he was not the promoter of record. Vice-Chairman Michelman then asked if he was indeed the promoter of the Table Mountain event to which Mr. Blanco stated that he was the consultant for Mr. Ochoa and he was his attorney. Mr. Blanco explained that he (Mr. Blanco) contacted Mr. Don Chargin regarding providing television for the event, but the promoter of record was Ochoa Promotions. Mr. Blanco further explained that according to the minutes of the June 12, 2002 Mr. Plowman states that fact.

(Chairman Sauter then stated that he could not attend the remainder of the meeting. Commissioner Mears then asked if Mr. Blanco was willing to waive his right to have Chairman Sauter present to hear any evidence either way and that action by the three remaining Commissioners would be satisfactory. Mr. Blanco agreed to this stipulation.)

Mr. Blanco continued saying that according to the minutes of the June 12, 2002 Commission meeting, on page 20, it reads, "Mr. Plowman stated that Mr. Ochoa was the responsible party, not Mr. Blanco". Mr. Blanco reiterated that the checks that bounced were issued by Mr. Ochoa and not Mr. Blanco. Mr. Blanco stated that through subsequent meetings with Mr. Lynch, Mr. Blanco agreed to pay \$13,120 because he (Mr. Blanco) admitted that he was involved in the show but not as the promoter of record.

Mr. Plowman then asked if Mr. Ochoa was the Secretary and Treasurer of TKO Boxing. Mr. Blanco stated that Mr. Ochoa was not only Secretary and Treasurer, but also President. Mr. Plowman then asked if Mr. Ochoa was one of the persons that qualified on the license as TKO Boxing. Mr. Blanco stated that originally when the corporation was established, Mr. Ochoa was a co-shareholder of that entity. He explained that Mr. Ochoa subsequently formed a subsequent corporation, Ochoa Promotions, Inc. and that may be where the confusion lies.

Vice-Chairman Michelman asked Mr. Blanco what his involvement exactly was for the Table Mountain event. Mr. Blanco replied that he was Mr. Ochoa's attorney and consultant. He explained that Mr. Ochoa made the contact with Table Mountain Casino. He further explained that he was prevented from being involved in the event because he had filed suit against a Tribal members approximately two years prior to that event for \$20,000 of unpaid legal fees. He stated that the Tribal member entered into a settlement of that amount but that person barred Mr. Blanco from being involved in shows at Table Mountain and that was the reason that Mr. Ochoa was the sole promoter of record for that event. Mr. Blanco stated he helped Mr. Ochoa prepare his application and form his corporation for him, but Mr. Blanco stated he was not on the bank account for that promotion. Vice-Chairman Michelman then asked if part of Mr. Blanco's settlement was Mr. Blanco's agreement that he would not promote nor be

involved in promoting events at Table Mountain. Mr. Blanco stated that is correct. Vice-Chairman Michelman asked Mr. Blanco, other than forming Ochoa Promotions, what else did Mr. Blanco do regarding this event. Mr. Blanco stated he helped him attain television from Mr. Chargin. Vice-Chairman Michelman then asked if his involvement was limited to his attaining television from Mr. Chargin. Mr. Blanco stated no, that he also helped Mr. Ochoa with some of the matchmaking. Vice-Chairman Michelman asked if there was anything else. Mr. Blanco stated there were other details of the event, but he was not present at the event nor did he write the checks. Mr. Blanco did state that he did reimburse over \$13,000 of the checks. Vice-Chairman Michelman then asked how Mr. Blanco was compensated for his consulting. Mr. Blanco stated that Mr. Ochoa paid him approximately \$4,000, which he subsequently returned to Mr. Ochoa as part of this entire issue. He explained that Table Mountain refused to pay Mr. Ochoa the unpaid site fee when it was their opinion that he did not deliver as promised. Vice-Chairman Michelman asked whether according to this settlement agreement, Mr. Blanco was not to be involved with any promotion. He then asked if there were particulars to this agreement. Mr. Blanco stated that there was a clause in the contract that Mr. Ochoa entered into with Table Mountain that stated that Mr. Blanco was to have no participation in the event. He further explained that Mr. Ochoa spoke to a member of the Tribal Legal Counsel, a Mr. Dan Casas, and Mr. Casas told Mr. Ochoa 'off the record' that Mr. Blanco could help him in matchmaking because Mr. Ochoa is not that familiar with the proceeding, but Mr. Blanco cannot be involved directly in the event nor may he attend the event and be seen with Mr. Ochoa. Vice-Chairman Michelman then asked if in the settlement agreement it stated that Mr. Blanco was not to be participating in the event. Mr. Blanco replied that is correct. Vice-Chairman Michelman responded that Mr. Blanco did participate in the degree that Mr. Blanco was matchmaking and attained television rights. Mr. Blanco stated that was correct. Mr. Plowman informed the Commission that staff was under the impression that this was a co-promotion. Mr. Plowman further explained that it was Mr. Don Chargin who paid the outstanding balance and not Mr. Blanco. Mr. Chargin stated that neither he nor his wife Lorraine Chargin had ever met or spoke to Mr. Ochoa and only had dealings with Mr. Blanco and indeed did supply the television rights. Mr. Blanco stated that Mr. Chargin sent Mr. Blanco a little over \$9,400 and that Mr. Blanco made up the difference of the \$13,000 that was owed and that money was from the \$4,000 that Mr. Blanco was paid for his consulting. Mr. Blanco stated that net amount he actually received was \$0.

Commissioner Mears then asked, regarding the issues with the State Bar of California, what the legal relevance that decision has regarding what the Commission is being asked to do at this particular meeting. Vice-Chairman Michelman explained that it involves Rule 390 and Rule 391 had engaged in conduct detrimental to the best interest of and bringing discredit upon boxing by reason of his conduct. Ms. Scuri added that the transgressions alleged by the State Bar are related to the financial credibility that is similar to those transactions for which a promoter is responsible. Vice-Chairman Michelman then asked for

clarity, that if an attorney resigns with charges pending, it is the same as 'guilty' . Mr. Plowman stated that yes, that is the State Bar's interpretation. He added that coupled with that fact, that these charges are final by reason of Mr. Blanco's default. He added that separate and apart the State Supreme Court accepted his resignation. Commissioner Mears then asked in light of that, and Rule 390, is that a violation of the law. Mr. Plowman stated that it is, with the facts that are found to be true of conduct that is discredit to boxing and that they are substantially related to the qualification, functions and duties of a boxing promoter. Commissioner Mears then asked if there was any additional information regarding the resignation of Mr. Blanco. Mr. Plowman stated that he was not aware of any. Mr. Blanco stated that he does stipulate that he is in violation of Rule 390 and Section 18842 of Business and Professions Code. Mr. Blanco stated what he was asking the Commission to do, was to take into account the way that the Commission had previously handled Mr. Bob Arum in a prior instance. He explained that Mr. Arum's actions 'struck at the heart of boxing' and the integrity of boxing. He further explained that his own conduct (Mr. Blanco's) is unrelated to boxing, granted that, as Mr. Plowman stated, it does involve financial matters. Mr. Blanco agreed that he is in violation of those Sections and those Rules, but is asking the Commission to take into account prior decisions made by the Commission as an adjudicatory decisions, not necessarily as precedent, but to analyze this situation with fairness and under equal protection and treat Mr. Blanco the same way as Mr. Arum in that Mr. Blanco's actions does not hit at the heart and the integrity of boxing. He further explained that there was no bribery involved or other conduct in the context of boxing. Mr. Blanco stated that he again does stipulate to all of the other allegations and agree completely with the Commission that a resignation is tantamount to a disbarment or an admission of guilt. Again he stated that he did agree with that.

Commissioner Mears then asked Mr. Plowman if the Commission concluded that Mr. Arum, in 1994 or 1995, was guilty of bribery. Mr. Plowman responded that Mr. Arum stipulated to a resolution of the issue. Commissioner Mears then asked what the outcome was. Mr. Plowman replied that Mr. Arum was fined the maximum amount allowed under law at that time which was \$2,500. Mr. Plowman explained to please note that it was a seven year old case at the time and the evidence was not in California and the evidence was a transcript of criminal trial that Mr. Arum rendered in another proceeding against the person (the official) that took the money. Mr. Plowman then informed the Commission that this particular case with Mr. Blanco is with offenses that occurred in California and the offenses are a detriment to this Commission. Vice-Chairman Michelman then stated that the State of Nevada fined Mr. Arum approximately \$100,000 and there were other fines and penalties elsewhere. Mr. Plowman stated talk of raising the fine schedule to \$100,000 to meet the State of Nevada's did not result in any legislative action.

Mr. Blanco then explained that regarding the event on June 27, 2003 at the Selland Arena stated that Mr. Plowman makes it appear as if Mr. Blanco stopped

payment on all of the checks. He stated that he stopped payment on two boxers and one person whom Mr. Blanco believes that the Commission does not have jurisdiction over whom is a booking agent by the name of Pedro Velario. Mr. Blanco stated that Mr. Velario does not have a license with those fighters. Mr. Blanco went on to explain that regarding Mr. Fray Sierra, there was an issue of the contract. Mr. Blanco admitted that he failed to provide Ms. Rebecca Alvarez, an Inspector, a copy of the contract he now holds. (Mr. Blanco provided a copy of these packets to the Commissioners). Mr. Plowman stated that these contracts are irrelevant because the only relevancy is in the Commission official's actions based upon what they were given by Mr. Blanco at the time of the promotion. (Vice-Chairman Michelman stated that for the record, the papers given to him and the other Commissioners are illegible). Mr. Blanco stated that there are two contracts, one for Fray Sierra and one for Isidro Tejedor. He explained that the contracts have a second page attached to them. Mr. Blanco stated on the night of the weigh-in he had given Ms. Alvarez the deductions that needed to be made and that Mr. Blanco had overlooked some deductions. He explained that Mr. Sierra should have had a deduction for \$300 for a neurological exam and a \$250 deduction for blood work. He added that for Mr. Tejedor there should have been a deduction for blood work for \$250. He stated that those amounts were not deducted and there was an overpayment for \$600 to Mr. Tejedor. He informed the Commission that there should have been a deduction of \$550 from Mr. Sierra and \$850 from Mr. Tejedor. Mr. Blanco stated that he had called Mr. Velario, who was speaking for the two fighters, the night of the event after they had returned to the hotel and told them of the mistakes and they refused to meet with Mr. Blanco to exchange checks. Mr. Blanco stated he attempted to call Ms. Alvarez the same evening. He further explained that the reason Mr. Velario's check was stopped was that he had already been paid and that Mr. Blanco mistakenly issued a second payment by check for \$500. Mr. Blanco stated he again spoke with Mr. Velario on the following Sunday after they had returned to Miami and Mr. Velario stated that the amounts were indeed correct and at that time Mr. Blanco told him not to try to cash the checks and that on the following day, Monday the 30th he would be putting a stop payment on them. Mr. Blanco informed the Commission that all three parties went to a company by the name of Foremost, Inc. which is in the business of cashing checks. He stated that the checks were cashed after Mr. Blanco told him that they were being contested. Mr. Blanco stated that normally a check cashing company would call the promoter to check to see if the checks were valid but this was not done. Mr. Blanco stated that he spoke to "Melissa" at Foremost, Inc. and attempted to send checks to Foremost but somehow the address was incorrect in the mailing and the checks were returned July 30, 2003. Commissioner Mears then asked if the checks were made out for the amounts that Mr. Blanco felt were correct. Mr. Blanco responded that they were. Mr. Blanco had then told Foremost, Inc. that he would be sending out the checks again on July 31, 2003. He explained that his grandmother had died on July 30, 2003 and Mr. Blanco had to leave to Texas right away and was unable to send the checks. He explained that during the interim that he was out of town, a Mr. Dan Oldsman had sent him threatening

emails and that Mr. Blanco had filed a complaint with the Fresno Police Department. Mr. Blanco stated he is willing to pay the amount but he feels that he has a complaint against Mr. Oldsman for intentional infliction of emotional distress. Mr. Blanco then informed the Commission that he is willing to send the corrected amounts to Foremost, Inc.

Mr. Plowman stated that going back to the beginning, Mr. Blanco admits that he did not give Ms. Alvarez the correct amounts at the show. Mr. Blanco replied that he had given her amounts at the weigh-in but did not give her the second sheets to the contract. He further explained that at the event he was busy and did not pay attention to the exact amounts when the checks were written. (Ms. Alvarez was sworn it at this time). Ms. Alvarez stated that she did indeed ask for the second page to contract and had told Mr. Blanco that if the deduction is not stated on the contract that the Inspector cannot deduct it from the fighters pay. She further explained that she had told Mr. Blanco that if he would provide her with the second page prior to the event, that she could make the corrections. She informed the Commission that regarding the fighter that Mr. Blanco said was overpaid by \$600, the other Inspector, Mr. Dwayne Woodard pointed this out to Mr. Blanco and Mr. Blanco responded to Mr. Woodard that the amount was correct, "That is what I meant to pay him". Mr. Plowman noted that Mr. Woodard submitted this corroboration of that statement in writing. She explained that she was following Commission procedure and held the contract that was submitted as binding. Mr. Blanco stated that Ms. Alvarez had deducted an amount from another fighter by Mr. Blanco's request. Mr. Blanco also stated that regarding the fighter who was overpaid, what he thought he was paying was Mr. Velario's booking fee in that contract because Mr. Velario told Mr. Blanco that he was cashing the checks. Mr. Blanco stated that he was confused at that point in time.

Commissioner Mears then asked how many events Mr. Blanco had promoted. Mr. Blanco replied approximately fourteen or fifteen. Vice-Chairman Michelman then asked if all of the checks have been satisfied. Mr. Blanco stated that they have not. Vice-Chairman Michelman then asked, if on June 30, 2003 Mr. Blanco knew the correct amounts he was suppose to pay these gentlemen, why did he not issue checks in the correct amount at that time. Mr. Blanco did not have an address at that point for Mr. Velario and only had a phone number. He explained that the boxers' addresses were in Colombia. He stated that when he had sent money to Mr. Velario previously, he had wired the money via Western Union. Vice-Chairman Michelman then asked if Mr. Blanco attempted to contact the Commission to find out any information on Mr. Velario. Mr. Blanco stated that he did not. He stated that because Mr. Velario was not a licensed manager, that he figured the Commission would not have an address for them. Again, Vice-Chairman Michelman asked him if he attempted to contact anyone at the Commission to try to get an address. Mr. Blanco stated he does not remember ever discussing an address. Mr. Blanco stated that if he is ordered to pay the checks, he will pay the checks forthwith.

Commissioner Mears then stated that the Commission is to decide if Mr. Blanco has engaged in conduct is detriment to the best interest of boxing. He further explained that there is an underlying question if Mr. Blanco has engaged in either a specific act of dishonesty, which is so egregious that it is a discredit to the interest of boxing, or there is evidence of a pattern of dishonesty and should he be allowed to continue to be licensed as a promoter. Commissioner Mears took note of the fact that Mr. Blanco has stipulated to the violation of Rule 390 based on the State Bar matter. Commissioner Mears stated that Mr. Plowman did not have any evidence contrary to what Mr. Blanco testified as to the nature of that discipline and why Mr. Blanco resigned. Commissioner Mears stated that it is his opinion that the State Bar matter, in and of itself, is not enough to revoke TKO Boxing's license. In regards to the Fresno matter, Commissioner Mears stated he did understand from Mr. Blanco's testimony that there was something inherently dishonest in what transpired. In regards to the Table Mountain issue, Commissioner Mears mentioned that it causes him the most concern. Commissioner Mears stated that it sounds as if Mr. Blanco violated the terms of a settlement agreement either directly or indirectly. He explained that perhaps it is conduct deserving of discipline, particularly in light of the State Bar matter. Commissioner Mears stated that Mr. Plowman has not proved to him that Mr. Blanco has intentionally tried to "cheat" the boxers in Fresno and that the Table Mountain event can be explained by Mr. Blanco. Mr. Plowman pointed out that the decision of the State Bar Court and the violation of Rule 390 are true concerning the embezzlement, the misconduct with funds, and that Mr. Blanco had a record of discipline with the State Bar for non-sufficient fund checks which references a conviction that was expunged. Mr. Blanco objected to that reference because it was not in the Petition. Mr. Plowman explained that it was in the State Bar decision. Mr. Plowman explained that there is more than the mere surrender of Mr. Blanco's license with charges pending although that is a viable cause to state misconduct that is a discredit to boxing. Commissioner Mears then asked Mr. Plowman to address the June 27, 2003 event.

Mr. Plowman: Ms. Alvarez, are you currently under oath?

Ms. Alvarez: Yes, I am.

Mr. Plowman: You have been an Inspector with the Commission in addition to your other duties for how long?

Ms. Alvarez: Approximately six years.

Mr. Plowman: And during that period of time you have regularly served as a supervising inspector on fights?

Ms. Alvarez: When I have been assigned by Dean, yes.

Mr. Plowman: Concerning the duties of the Inspectors at the fight, in terms of the payout of purses and expenses, what are the Inspectors responsibilities?

Ms. Alvarez: We get the deductions from the promoter, on the contracts or we get them verbally to have them put it on the contract. Other than the license fees that we deduct, if there is any neuro or blood work it also has to be on the contract to be deducted.

Mr. Plowman: And how is that memorialized, how is that made a Commission record?

Ms. Alvarez: Being written on the contract when the boxers sign it.

Mr. Plowman: For purposes of payment, is there a pay sheet?

Ms. Alvarez: The pay sheet has itemized deduction of what each boxer is being deducted from their purses, the net pay is given to the promoter to write out the check for the fighters. The fighters sign at that time for that amount. If it is incorrect and there is a problem, they will bring it to my attention and I will address the promoter.

Mr. Plowman: (showed Ms. Alvarez and the Commissioners copies of the payoff sheet) Would you take a few moments and review the payoff sheet.

Ms. Alvarez: Yes.

Mr. Plowman: Are the two sheets present in the file.

Ms. Alvarez: Yes.

Mr. Plowman: These were prepared at the end of the evening?

Ms. Alvarez: Actually, they are prepared after the weigh-in and we usually give it to the promoter prior to the event start.

Mr. Plowman: In this case, are the amounts that are supposed to be paid pursuant to the contracts set forth on that sheet.

Ms. Alvarez: Yes.

Mr. Plowman: And finally at the end of the show is there another form that has everyone signing for their checks.

Ms. Alvarez: Yes.

Mr. Plowman: Do you see that in those documents?

Ms. Alvarez: Yes, it has all the fighters signatures on it. He's given a copy of this and the original goes back to our office with the show packet.

Mr. Plowman: Do you remember that show, that evening on June 27th.

Ms. Alvarez: Yes I do.

Mr. Plowman: And the amounts that are there, that were paid out were checks that were written by Mr. Blanco in your presence?

Ms. Alvarez: I was not present, but we received the checks in hand.

Mr. Plowman: They were given to the boxers?

Ms. Alvarez: Yes.

Mr. Plowman: And the records of the Commission that are on that payout sheet are the amounts that were on the checks that were issued by Mr. Blanco?

Ms. Alvarez: Yes.

Mr. Plowman: (speaking to Mr. Blanco) Is there any disagreement with that?

Mr. Blanco: (Mr. Blanco reviewed the payout sheet) Ms. Alvarez there is a column marked miscellaneous, it looks like something is marked off where you wrote and it's not legible on the fighter Tejedor and I do see the deduction on the lab for Sierra. Do you recall that?

Ms. Alvarez: Yes. That is incorrect. On the bottom where it says, "1" "2" and "3". It goes with the fighters amount. So, instead of putting miscellaneous column, it is down here on the bottom of the sheet.

It's the amount that you requested to have deducted from their purses.

Mr. Blanco: And that includes the amount that was on the second page that unfortunately you never saw on the contract that I have given the Commission.

Ms. Alvarez: Right.

Mr. Plowman: Let's be clear on this, the witness never saw another document?

Mr. Blanco: The boxers initialed the contract and the Commission members have that second page. I admit, and I have stated once, that I failed to give that to Ms. Alvarez. I gave it to her orally but I did not give her the second page that the contract incorporates by reference. Ms. Alvarez, has there ever been an occasion to your knowledge where a boxer has been overpaid and they brought that to your attention?

Ms. Alvarez: No.

Mr. Blanco: It never happens.

Ms. Alvarez: But I believe also that on one of these boxers that the amount is questioned, we waited an additional I think it was an hour and a half- two hours at the weigh-in because he refused to sign this contract because of the pay and the weight.

Mr. Blanco: No that was Ryan Davis.

Ms. Alvarez: It was one of these fighters that was fighting Ryan Davis.

Mr. Blanco: No, Ryan Davis was fighting Parra.

Vice-Chairman Michelman then asked if Mr. Plowman would like to add anything. Mr. Plowman stated that he would like to add that the checks were written for the amount that was agreed to on the pay sheet and that Mr. Blanco was present and writing the checks and those amounts were established by the Commission and the amounts that were paid. He explained that any attempt for Mr. Blanco to subsequently modify those amounts in any way other than what the Commission approved constitutes an attempt to change the compensation ex post facto, which is strictly prohibited by the Commission. Commissioner Mears then stated that Mr. Blanco testified that he had mailed the checks in the correct amounts to Foremost. He then asked him if he had any evidence that this had been done. Mr. Blanco stated he did not. It was noted that Foremost, Inc. cashed the original checks for the face amount and that the check cashing facility is now pursuing action against both those who cashed the checks (i.e. boxers, agent) and Mr. Blanco to recover the lost monies. If Mr. Blanco does not satisfy the checks for the original amount, the boxers and the agent are liable. Ms. Scuri stated that the question at hand was if Mr. Blanco had any evidence in hand to show that sequence of events and Mr. Blanco had replied he did not. Mr. Blanco then objected on the grounds that normally the attorney that is the prosecuting attorney and the attorney who consults with the Commission there is a fine line, with all do respect to lead counsel, he was not sure why Ms. Scuri was objecting rather than Mr. Plowman and Mr. Blanco stated he takes exception to that.

Vice-Chairman Michelman then asked if Mr. Plowman had anything to add regarding the Fresno situation. Mr. Plowman stated that there is a certain amount of non-clarity at hand. Mr. Plowman stated that the sequence of events as he understands them from Mr. Blanco is that this: the fighters were paid, they went to Miami, Mr. Blanco decided the amounts were wrong, the check cashing facility cashed the checks and are left now with only Mr. Blanco's offer to satisfy only a portion determined by Mr. Blanco to Foremost, Inc. Vice-Chairman Michelman then asked Mr. Blanco, when Foremost, Inc. contacted him did inform them that he would replace the checks with checks of a different amount. Mr. Blanco replied that is what he had said. Vice-Chairman Michelman then asked if the checks Mr. Blanco mailed to Foremost, Inc. that were returned were for a different amount than the original checks. Mr. Blanco stated that they were, \$550 less for one and \$850 less on another and the check to Mr. Velario was stopped all together and should not have been paid.

Vice-Chairman Michelman then asked Mr. Plowman if he would like to add anything regarding the Table Mountain Casino. Mr. Plowman stated that there was testimony as to Mr. Ochoa's involvement and also that it was a co-promotion. It was his belief that the testimony of Mr. and Mrs. Chargin would be beneficial in that it would clarify with whom they had been dealing.

(Mrs. Lorraine Chargin was sworn in by Mr. Lynch).

Mr. Plowman then asked if Mrs. Chargin recalled the Table Mountain event and did she recall with whom Chargin Promotions negotiated television rights. Mrs. Chargin testified they were in total dealings with Mr. Blanco and does have a contract that she did bring with her to the meeting. Mrs. Chargin stated that Mr. Blanco had sent correspondence and that she had called the Commission staff for a reference on Mr. Blanco to which she stated that staff told her he was a currently licensed promoter.

Mr. Blanco then directed his testimony to Commissioner Mears and stated there might be confusion in that he did not have a settlement agreement that he had with the Tribal member. Mr. Blanco stated that what he meant was that there was an agreement that Mr. Ochoa, Ochoa Promotions, signed with Table Mountain that prevented Mr. Blanco from being involved in the show. He added that he was a third party in the contract. Vice-Chairman Michelman then asked Mr. Blanco if he was aware of that clause. Mr. Blanco stated that he was aware of it, but after the fact. He stated that he (Mr. Blanco) first started negotiating and then approximately two weeks later that clause was put into the contract. Vice-Chairman Michelman then stated that at sometime during the time surrounding the event, Mr. Blanco became aware of the clause that Table Mountain did not want Mr. Blanco's involvement in this promotion. Mr. Blanco replied yes, that was true but in retrospect everything had already taken place. Vice-Chairman Michelman then asked Mr. Blanco whether he was or was not a part of the contract with Table Mountain. Mr. Blanco replied, "Not at the time that I was

involved in negotiating the television side for Mr. Ochoa”. Vice-Chairman Michelman rephrased his question and asked Mr. Blanco, “Were you a party to this contract? Did you sign it? Were you in agreement?”. Mr. Blanco replied “No sir, it was a statement put into the contract”. It was Mr. Blanco’s understanding that the Commission had a copy of this contract.

Vice-Chairman Michelman then asked pertaining to the findings of the State Bar, what was the history of the non-sufficient fund checks. Mr. Blanco stated that the incident occurred in 1991 and an insurance company refused to honor an insurance policy in which Mr. Blanco had a break-in. He stated that his insurance had told him there was a check forthcoming, Mr. Blanco wrote a check to a dealer for approximately \$1,800. Mr. Blanco stated there was no coverage on that type of claim. He stated that according to State Bar record the dealership turned the check over to the District Attorneys Office on a non-sufficient funds claim. He stated that he paid it but that it was still reported to the State Bar. Vice-Chairman Michelman asked if there were any other non-sufficient fund issues. Mr. Blanco stated there are not.

Commissioner Mears then asked Ms. Scuri if it the Commission had the discretion to take any disciplinary action it deems appropriate such as no action, suspension, revocation or restitution. Ms. Scuri replied that restitution is not available to the Commission; however, the Commission could condition a suspension upon restitution but the suspension could not exceed the period of twelve months. She explained that any action such as suspension the Commission takes is limited by the license period and could not carry over until the next year because the party may not renew their license. Ms. Scuri then responded to Mr. Blanco and stated that, for the record, she is employed by the Department of Consumer Affairs, and is not a part of the prosecutorial chain of command and does not work with Mr. Plowman. She further explained that it is her responsibility to give advice to the Commissioners.

Mr. Plowman then asked the Commissioners to take note of Business and Professions Code 18841 which states in part, “Notwithstanding any other provision of this code, licenses issued under this chapter may be revoked, suspended or placed on probation under terms and conditions but not limited to, the making of restitution for any violation or attempted violation of this chapter, any rule or regulation adopted pursuant thereto or for any cause for which a license may be denied...”

Mr. Plowman informed the Commission that the penalty phase is within the Commission’s discretion for violation that Mr. Blanco has stipulated to of Rule 390. Mr. Plowman stated that he would like the Commission to view this as a pattern. He explained that the pattern goes back before this gentleman was licensed and a pattern that has continued through most recently June 27th and is a pattern of systematic dishonesty. Mr. Plowman stated that his major concern is that on two separate occasions the staff was occupied with issues surrounding lack

of funds and Mr. Blanco including an illegal promotion with Mr. Blanco and Mr. Ochoa. Reminding the Commission that Mr. Ochoa was the Secretary, Treasurer and President of TKO Promotions at the time Mr. Blanco first received his license in 1999. He stated that he believes there is evidence that he was involved in that promotion and the misleading statements surrounding it. He also noted Mr. Blanco's conduct in the practice of law, which involves endorsing names on checks and the findings of the State Bar. He then noted that in regards to the Fresno show, the Commission staff after closing the books on the event, Mr. Blanco decides to change the amounts leaving an innocent company and innocent parties at a loss. He concluded that the bottom line was a discredit to the profession of boxing and a severe inconvenience on the amount of time the employees of the State of California have had to spend with another one of Mr. Blanco's promotions or deed and strongly urges the Commission to not allow Mr. Blanco to continue to be a promoter in the State of California. Mr. Plowman further noted that this was not being done as an individual, but through a corporation and there is limited liability.

Mr. Blanco stated that he takes full responsibility for the corporation. He stated that in regards to the Fresno event it was the amount he believed was agreed to. He explained that the difference was approximately \$1,350 which may not be a lot of money to someone like Mr. Arum, but was a lot for Mr. Blanco. Regarding Table Mountain, Mr. Blanco explained that Mr. Ochoa, in 1998, was involved as a shareholder of TKO Promotions, subsequently resigned and formed his own corporation with Mr. Blanco's legal assistance. Mr. Blanco stated he did not learn of Table Mountain 'black balling' him until after 99.9% of the event was in place. He further explained that he did not sign the checks, and that they were from Mr. Ochoa. Mr. Blanco stated that regarding the State Bar, he agreed and stipulated that he violated Section 18842 of Business and Professions Code and Rule 390. He reiterated that he is only asking for the same consideration as someone like Mr. Arum whose conduct struck at the heart of the integrity of boxing, in bribery of an official to change rankings. He explained that he felt that is a more serious integral part of boxing. Mr. Blanco further explained that his own conduct was several years ago and an aberration. He mentioned that Mr. Arum's situation was done in closed session and would like to ask for equal protection under the law and subject to due process and would like the same consideration and would like a written reason as to why the Commission cannot do that if that is the case.

Commissioner Mears then asked if the Commission has the authority to place this promoter on probation. Ms. Scuri replied that the Commission could revoke, suspend or place the promoter on probation. Commissioner Mears then asked if the Commission has the authority to fine Mr. Blanco. Ms. Scuri replied that the Commission could fine Mr. Blanco.

Commissioner Frierson informed Mr. Blanco that Mr. Arum was not the situation at hand. He stated to Mr. Blanco that it was his opinion that Mr. Blanco is 'painting himself' as a victim. Commissioner Frierson stated that he believed that

there were too many different circumstances that it supposedly wasn't Mr. Blanco's fault. He further explained that as a layman, it seems Mr. Blanco is not completely honest.

Vice-Chairman Michelman stated that he understood the State Bar Findings, he understood the stipulation by Mr. Blanco to violation of Rule 390 and he understood the concept of there being some nexus between the State Bar and what is going on in boxing community as a licensee. He also stated that he understood the argument that there is some disconnect from the State Bar matter to what is happening as a licensee however; he does not agree with that separation. Vice-Chairman Michelman explained that the State Bar matter shows the financial irresponsibility dealing with trust funds in terms of cashing and receiving money that allegedly the client did not sign off on. He stated that that irresponsibility made the client the effect of that action, similarly, the Fresno situation, there was an agreement to pay a certain amount and due to Mr. Blanco's irresponsibility or negligence by not giving the second page of the contract to the Commission – those checks were disbursed and cashed. He further explained that now due to mistakes that Mr. Blanco made solely on his own, Mr. Blanco was only willing to reimburse a portion of the owed amount and that Foremost, Inc. would attempt to recover the difference amount from the fighter and agent. Vice-Chairman Michelman stated this all stems from mistakes that Mr. Blanco made and now others are "feeling the pain" of his irresponsibility. Mr. Blanco then stated he was willing to satisfy the entire amounts.

(The Commission then voted to close the hearing portion of this agenda item and to continue discussion on the penalty phase.)

Commissioner Mears then stated that he did not believe that the case had been made of a pattern of dishonesty but rather a pattern of an individual who tends to engage in self-help when the rules do not serve his purpose. He further explained that the Commission is in place to enforce the rules and to make sure all the participants play by the rules. He stated that one message that Mr. Blanco should take away from this meeting; whatever the Commission decides; if you are going to play this game, then you are going to have to play by the Commission's rules because they exist for many important reasons not the least of which is to permit the staff to properly administer this sport.

Commissioner Mears then suggested that Mr. Blanco be placed on a one year probation and that the terms of the probation be that Mr. Blanco report back to this Commission in one year so that his conduct for the preceding year may be evaluated and to obey all rules of the Commission subject to the possible revocation of his license if he fails to do so. Ms. Scuri suggested that a suspension or revocation could be ordered and stayed pending the licensee's violation of any rules. Commissioner Mears then modified his suggestion to be a 90-day suspension, which would be stayed, and Mr. Blanco is placed on one-year probation and he must obey all of the rules of the Commission during that one-

year period of time. Commissioner Mears added that Mr. Blanco must make full restitution to Foremost, Inc. including any penalties they insist on levying and to be fined \$2,500 for the additional work the staff has had to participate in to bring this matter to bring it to the Commission's attention. Ms. Scuri then asked if the Commission would like Mr. Blanco to report prior to the one-year period. Commissioner Mears stated that Mr. Blanco should appear in six months for evaluation and added that the restitution to Foremost and the fine must be paid forthwith. Vice-Chairman Michelman suggested that the license be suspended until proof is given to staff that the restitution and fines have been paid and that the probation begin as of that date for a period of one year.

Action: **Motion by Commissioner Mears and seconded by Vice-Chairman Michelman to suspend the license of TKO Promotions until full restitution has been made to Foremost, Inc. and \$2,500 fine be paid to the California State Athletic Commission and that the individual and the entity will be placed on one year probation beginning on the date of full restitution and the individual as well as the entity are to obey all laws during the probationary period and report back to the Commission six months prior to the end of the probationary period and at the conclusion of the probationary period.**

Vote: **Unanimous.**

9. REGULATION HEARING – MIXED MARTIAL ARTS / KICKBOXING - ACTION

Mr. Lynch stated that at the March 26, 2003 Commission meeting, the mixed martial arts / kickboxing proposed regulations were unanimously approved as amended. The specific purpose of the regulations is to promulgate regulations that address full contact mixed martial arts or submission fighting. The additional intent is to eliminate any inconsistencies between mixed martial arts and kickboxing.

He stated that this portion of the agenda is to allow the public to submit oral or written comments regarding the proposed regulations. This comment period is in addition to the previous 45-day comment period, which provided for the acceptance of written comments. To date, no written comments have been received. Once the comment period is closed, staff will proceed with the regulatory process. Mr. Lynch added that the Department of Finance has again refused our funding request.

Mr. Kirk Hendrick, Chief Operating Officer for Zufa, LLC that is owner of the Ultimate Fighting Championship based out of Las Vegas, Nevada, stated that he is in full support of these regulations. He explained that it was California in conjunction with several other states, including New Jersey that have been in the forefront of trying to regulate this new sport which will be the future of unarmed combat. Unfortunately, he stated there are those in the State that do not believe it is appropriate for the Commission to regulate this sport which would bring significant financial resources to the State. He stated that it was his understanding that there would be a legislative committee meeting on August 27, 2003 and Mr. Hendrick stated that he will be prepared to speak at that time to emphasize that this sport is safe, that this Commission can regulate it, and the State can greatly financially benefit from this regulation. He further

explained that his company pays considerable taxes in any other state and instead of avoiding regulation, he is strongly pursuing regulation. He informed the Commission that California has a strong fan base for the sport and many of the fans travel from Southern California to Las Vegas to purchase tickets to watch the sport. He added that he would like to see an event at the Staples Center and can predict that it would be a sell out crowd. He concluded with thanking the Commission and Commission staff on their diligence in the pursuit of regulation of this sport and will continue to pursue until it is regulated.

Mr. Linus Smith, a college wrestling coach stated that he attended this meeting to inform the Commission that mixed martial arts is a safe sport and he would like to add his support to the regulation of mixed martial arts.

Mr. Fred Lewis, a licensed promoter, stated that there is a large consumer market for mixed martial arts and it is his belief that events are now taking place, but on sovereign land. He is also in support of California regulating the sport and bringing the sport mainstream and taxable.

Mr. Turi Altavilla, Dream Stage Entertainment USA, of Pride Fighting Championships stated that he also is in support of California regulating this sport.

Mr. Greg Gulli, a licensed promoter, also agreed that he is in support of the regulations.

Ms. Scuri informed the Commission that if the Commission votes to adopt the regulations, that the regulations will be forwarded to the Department of Consumer Affairs for the approval by the Director and then if the position of the Department of Finance could be changed then to the Office of Administrative Law.

Action: Motion by Commissioner Mears and seconded by Vice-Chairman Michelman to adopt the mixed martial arts / kickboxing regulations.
Vote: Unanimous.

10. AMATEUR MARTIAL ARTS INFECTIOUS DISEASE TESTING / PROPOSED PROPOSED LEGISLATION – INFORMATION / ACTION

This item was not heard.

11. PROMOTER FINANCIAL STATEMENTS – INFORMATION / ACTION

Mr. Lynch informed the Commission that staff is requesting Commission guidance on the subject of promoter financial statements. The main question is, should there be a minimum dollar or net worth that a promoter should have before he or she can be deemed responsible enough to promote. Also, should there be a minimum level of financial responsibility for amateur vs. professional promotions? Mr. Lynch stated that he had addressed this with other commissions and they have no specific criteria, which must be met. All of the commissions seem satisfied if a prospective promoter can meet the bonding requirements.

Commissioner Mears stated that independent verification of the representations that the applicant is making on the application about their financial health is needed. He suggested that it be required that a certified public accountant or public accountant prepares the financial statements for the applicants.

Action: Motion by Commissioner Mears and seconded by Commissioner Frierson to have all promoter applicants submit a financial statement prepared by a certified public accountant or a public accountant as a requirement of the application.

Vote: Unanimous.

**12. COMMISSION RULES 217 & 218 – WRITTEN EXAMINATION AS
CONDITION OF LICENSURE – MATCHMAKER / MANAGER / SECOND
TIMEKEEPER – INFORMATION / ACTION**

This item was not heard.

13. TOUGHMAN EVENTS – INFORMATION / ACTION

This item was not heard

**14. PROFESSIONAL / AMATEUR BOXER / MARTIAL ARTS FIGHTER
MEDICAL INSURANCE**

Commissioner Mears had requested that this issue be discussed. Commission Rule 290 states in part that all promoters shall carry a short-term medical insurance plan for boxers that are approved by the Commission. The promoter is responsible for payment of any deductible and the cost of the insurance will be stated in the bout contract between the boxer/manager and the promoter.

It has long been the Commission policy that the insurance be no less than \$20,000 per boxer per event. While the Commission does not require an accidental death policy, it is included in all of the policies. The current accidental death policy is \$20,000-\$50,000 for events in California.

Staff polled the other states Athletic Commissions regarding their minimum requirements for boxer medical insurance. While one state had an amazingly low amount of \$500 coverage per boxer, the normal seemed to be \$20,000 and \$50,000.

Staff requested rate information from the two major insurance carriers that are used by the majority of California promoters and the difference ranged from an increase of \$42 per boxer up to \$275 per event.

In the interest of boxer health and safety and the relatively minimal cost increase the Commission may want to consider increasing the minimum amount of medical insurance from \$20,000 to \$50,000 per boxer per event.

Action: Motion by Commissioner Mears and seconded by Vice-Chairman Michelman to recommend to the Commission to increase the medical insurance and Accidental Death and Dismemberment insurance from \$20,000 to \$50,000 as of January 1, 2004.

Vote: Unanimous.

15. SUSPENSIONS – KNOCKOUT / TECHNICAL KNOCKOUT / HARD FIGHT – INFORMATION / ACTION

This item was not heard.

16. SUNSET REVIEW – INFORMATION / ACTION

This item was not heard.

17. REFEREE EVALUATIONS UPDATE – INFORMATION / ACTION

This item was not heard.

18. REFEREE’S ASSOCIATION REPORT – INFORMATION / ACTION

18.1 Statistical Report – Monthly Assignments

Mr. Martin Denkin, a licensed referee, stated that he was present as a representative of the Referee’s Association. (Mr. Denkin provided the Commissioners with a statistical report on the referee/judges assignments). Mr. Denkin stated that he had been keeping records for approximately 7 years with the officials name and their perspective assignments. He stated that in the beginning the pay was not an issue and he did not keep track, but over the years there have been changes. He informed the Commission that when officials had complained they were not being treated fairly, he would show that individual statistically that they were or were not.

Mr. Denkin stated that assignment of officials is very difficult to do. He further stated that it was his understanding that the Commission did not want a rotation program of any kind but it is his opinion that Mr. Lohuis still uses the rotation to keep assignments equitable.

Action: No action was taken.

Vote: No vote was taken.

18.2 Bout Approval – Marginal Bouts – Referee Duties

Mr. Denkin stated that it was his understanding that if a boxer had never fought in California, that fighter would have to go through a screening session with an Inspector. Mr. Denkin explained that he had attended an event with Commissioner Frierson in which it was his belief that a majority of the bouts were mismatches. He stated that it does not usually happen with the larger promoters,

but it seems that it is habitual with the small promoters. Commissioner Mears then asked Mr. Denkin how he would like to resolve this problem. Mr. Denkin stated that screening of fighters who haven't fought in a period of time or over a certain age.

(Several different bouts were discussed at this time)

Vice-Chairman Michelman then asked Mr. Denkin for a complete solution or system that is better than the process that is used now. Commissioner Frierson then asked how much in advance does the staff know of the opponents for any given event. Mr. Denkin replied from anywhere from two weeks prior to the day of the weigh-in. Vice-Chairman Michelman then asked how would the Commission screen the person if they only become aware of the person the day of the weigh-in. Mr. Denkin suggested that all fighters be licensed prior to the event. Ms. Scuri replied that it may be a catch-22 in that situation because of Business and Professions Code Section 18642.5 which says in part that "a professional boxer or martial arts fighter shall prior to licensure by the Commission demonstrate their ability to perform...". She stated that if at any time the fighters ability to perform came into question the Commission can accept whatever evidence is available to support the facts.

Commissioner Mears then asked if the two problems that Mr. Denkin is suggesting are the following:

1. There are some boxers who should not be licensed under any circumstances.
2. Mismatches – someone who is competing against someone who is out of their league.'
3. The promoter is creating mismatches in order to advance the better fighter.

Mr. Denkin stated that the stronger promoters are not setting up mismatches, rather they are trying to set up wins for their boxers. Commissioner Mears explained that the most rational decision would be to make the promoters responsible for the mismatches. He suggested that the Commission explore the different options available. Mr. Denkin informed the Commission that when Mr. Richard Decuir was the Executive Officer, when the staff received the advance notice, the Chief would discuss the bouts with the referee assigned to discuss the viability of the bout. Commissioner Mears stated that perhaps if there was some type of discipline against a promoter who had an abundance of mismatches. Mr. Denkin stated that having the promoter responsible is not the answer. He explained that is why the State has a Chief Inspector to make these decisions. Mr. Denkin argued that Commissioner Mears' suggestion would not be fair to the promoters. Commissioner Mears then asked why the promoters should not be responsible for putting two contestants together who should not be competing. Mr. Denkin explained that the Commission is the 'last line of defense'. Vice-Chairman Michelman suggested that Mr. Denkin please put into writing what exactly he would like to see done.

Mr. Chargin then commented that no one was saying anything in defense of Mr. Lohuis. He explained that he deals with Mr. Lohuis on almost a daily basis and that there is no one who knows fighters better than he (Mr. Lohuis) does. He stated that as the Chief Inspector, approving bouts is hard enough without having to blame the promoters. He further explained that as a promoter, you never know how a particular bout may end. He noted that a promoter may have a good idea of the winner, but circumstances often change and a fighters record may or may not be a good reference on how he will perform.

Commissioner Frierson stated that his point is that the smaller promotions have a hard time just obtaining the correct amount of rounds for the event and top it with not having competitive bouts and therefore having a poor event. Mr. Chargin stated he prides himself on being a good matchmaker and event that is not enough and there are times when you have a bunch of knockouts. He stated that it simply just happens. Commissioner Mears explained that the issue is not the occasional unexpected outcome, but rather the system that isn't working if there are an abundance of mismatches and having the person responsible come before the Commission and explain themselves.

Mr. Denkin stated that neither the Commission nor Mr. Lohuis is a matchmaker but rather they have the responsibility that the consumers are not defrauded and the safety of the fighters.

Mr. Joe Borrielli then suggested that Mr. Lohuis explain his method of screening of boxers and the system that he utilizes in approving bouts. Vice-Chairman Michelman reminded the Commission and the audience that this agenda item is for information and not action. He explained this is not an opportunity for accusations to be made and someone has to defend themselves, he frankly is not interested in that. He noted that he would like to identify the problem, if there is one, and have suggestions on how to fix it. Commissioner Frierson stated that he has no doubt that Mr. Lohuis knows the fighters, inside and out. He further informed the Commission that although Mr. Lohuis may not want to approve the fight, the promoter may not have any other choice other than to call off the event.

Mr. Hassett agreed that this item is for information only and suggested that perhaps a review committee could be appointed to review the promoter's performance. He did state that the Referees Association would like the Commission to address the issues regarding Mr. Delgado and Mr. Crebs as soon as possible. Vice-Chairman Michelman explained that he is in favor of several committees but the decision needs to be made on what the objective of the committees should be, who should be on the committees and what the Commission would like the committees to accomplish.

Vice-Chairman Michelman then asked Mr. Lohuis if he had any comments. Mr. Lohuis informed the Commission that he could answer every allegation that was

made at this meeting. He noted that there was not enough time to go into each individual allegation at this meeting. He did explain as one example, in the situation of a mismatches, he could explain and justify each and every bout that was approved. He further explained that his main objective has been and will always be the safety and health of the fighters. He informed the Commission that a promoter will never tell him that he needs a fight to fill out the card. Mr. Lohuis went on to say that he has specific standards that he has fine tuned within the last thirty years, in which a fighter has an opportunity to win the fight. He noted that if the fighter does not have an opportunity to win the fight – he will not fight. He stated that there is no one who is aware of the staggering amount of fights that he disapproves. He informed the Commission that he follows fights around the world continually to find out information on the fighters regarding their skill, experience and ability. Mr. Lohuis responded as to screening criteria that he utilizes, he uses a system that has been approved by Mr. Lynch. He then stated that if the Commission has a more prudent manner in which to judge the fighters he is open to suggestions. He stated that in his system the only way to judge a fighter is by actually seeing the fighter perform. He reiterated that neither he nor the Commission are matchmakers and that their primary responsibility is the health and safety of the fighters. He explained that his responsibility is to review the information that the promoters provide and determine if it should be a fight and if so how many rounds. He further explained that this is done by his ability and experience of thousands of hours of building what is a good and equitable match. Commissioner Mears then asked if it was Mr. Lohuis' belief that through this system screening that there are an unacceptable number of mismatches produced or if Mr. Lohuis believes the system is working. Mr. Lohuis replied that he has never approved a mismatch. He explained that there are bouts that are submitted by the promoter, that may be approved on the grounds that have been established, that are predictably one sided. He further explained that there is a vast difference in that than a mismatch. Commissioner Mears then asked that although a layman could try to judge who is going to win, it is Mr. Lohuis's responsibility to determine whether or not this particular fight can safely participate in the fight, whether or not it is a 'mismatch', that is someone else's concern and issue but not the Commission's. Mr. Lohuis' explained that no one knows how the fighter has been preparing in the gym or the style of the fighter. He reiterated that although the bout may look good on paper, the style may skew the results. Mr. Lohuis reminded the Commission that California has three and four times more events that anywhere else in the world and in the recent tenor there has been no major injuries. He explained that this is due to great referees, great doctors and an excellent Commission – he stated that California must be doing something right if California does not have the injuries that other places do.

Commissioner Frierson stated that the Commission depends on Mr. Lohuis as an expert, and in his opinion Mr. Lohuis is an expert, to look a little closer at these marginal bouts.

Commissioner Mears suggested that an item be brought describing Mr. Lohuis' chief responsibility and if it should be:

1. Whether or not the proposed fight is presenting evenly matched fighters.
2. Whether or not his charge is as he already sees it to be (the health and safety of the fighter and the opportunity of an opponent to win).

Commissioner Mears then stated that if the Commission would like to change Mr. Lohuis' charge then that should be discussed. Vice-Chairman Michelman agreed that Mr. Lohuis' system of approval should be discussed as to whether or not the Commissioners feel that the current system is working or not. Commissioner Mears stated that he understands all points of the discussion and would like to discuss it further.

18.3 Improproprieties and Inadequate Assignments Regarding The Following Referee / Judges:

a) Vince Delgado

Mr. Denkin suggested that Mr. Delgado has had a complaint about assignments for approximately two years. He explained that the reason he is speaking for him is that Mr. Delgado does not feel comfortable addressing the Commission.

He stated that currently there are arguments as to whether or not Mr. Delgado is capable of being an efficient referee. Mr. Denkin stated that it is not his position to evaluate Mr. Delgado but is here to state that Mr. Delgado has been treated unfairly. He stated that Mr. Delgado did not perform satisfactorily at an event, according to Mr. Lohuis, and at that event Mr. Denkin stated that Mr. Lohuis told Mr. Delgado that he would not referee anymore. It is Mr. Denkin's opinion that Rule 376 was attempted on Mr. Delgado but it was his belief that because Mr. Lynch did not have any corroborating information, the proceeding did not go through. He further explained that Mr. Lohuis' testimony on whether or not someone should or should not referee should be sufficient without corroborating evidence. He stated that since that occasion Mr. Delgado had been only judging until he spoke with Chairman Sauter and Chairman Sauter then spoke with Mr. Denkin. He further explained that during this time Mr. Lohuis had called Mr. Denkin and informed him that he would be switching with Mr. Delgado and Mr. Delgado would be the referee and Mr. Denkin would be the judge. Mr. Denkin stated that when he asked the reason for the change, Mr. Lohuis stated that it was a directive of Mr. Lynch. Mr. Denkin then called the Sacramento office and was told that he would be refereeing and Mr. Delgado would be a judge. Mr. Denkin stated that he came prepared to referee in case Mr. Delgado had not been notified by Mr. Lohuis. Mr. Denkin explained that when Mr. Delgado arrived at the event, he was prepared to judge and when Mr. Denkin told him he was supposed to be the referee, Mr. Delgado became very upset and angry.

Mr. Denkin concluded that whether or not Mr. Delgado should be a referee or not, he should be given due process and notified.

Vice-Chairman Michelman informed Mr. Denkin that the phone call changing assignments for Mr. Delgado may have been a simple staff error, he then asked Mr. Lohuis if a phone call was made. Mr. Lohuis stated that he does not call the officials it is the Sacramento staff's responsibility to do that. He further responded that Mr. Denkin's personal attack on him alleging that Mr. Lohuis did not inform Mr. Delgado on purpose, is totally inadequate, irrelevant and filled with innuendoes. Vice-Chairman Michelman stated that it is his understanding that there are times when there is communication breakdown. He explained that the Commission is working on that issue, but at times it may be a simple error and perhaps taken the wrong way and the wrong conclusions have been drawn. He further explained that communication is an issue the Commission is constantly working on. Mr. Denkin stated that when he makes an allegation against Mr. Lohuis it is based on fact. He further explained that although Mr. Lohuis states that he does not call officials, he (Mr. Denkin) has personally spoken with Mr. Lohuis on many occasions discussing assignments and for him to say that he does not call officials is an outright lie. He stated that there are other officials in the audience that could corroborate his allegations.

Commissioner Mears stated that he is aware that Mr. Denkin feels very strongly about this issue, but advised him not to engage in personal attacks however justified he may feel. Commissioner Mears explained that the staff is going through turmoil, and as he must be aware, this is not the best time in history to be in state service. He further explained that the staff, Mr. Lohuis in particular, is one of the hardest working people in the State on the behalf of boxing. He added that Mr. Lohuis is not perfect but advised Mr. Denkin to be civil not accusatory. Commissioner Mears stated that when Mr. Denkin personally attacks any one of the staff, that it is distracting to him in that he begins to think about the attack and not on what Mr. Denkin is trying to say. Commissioner Mears then informed Mr. Denkin that he genuinely would like to hear what Mr. Denkin's values are and what Mr. Denkin has to say but to please try to leave the emotion out of the argument. Vice-Chairman Michelman stated that if Mr. Denkin could focus on the communication, Mr. Denkin would be more apt to keep the Commission informed.

b) Anthony Crebs

Mr. Denkin stated that Mr. Crebs was present at the evening in question with Mr. Delgado and the allegation that Mr. Lohuis stated that he was not performing satisfactorily as a referee. Mr. Denkin informed the Commission that Mr. Crebs has never worked a main event, title bout and very little if any television. He explained that Mr. Crebs was told by himself (Mr. Denkin), when Mr. Lohuis commented about Mr. Delgado's performance, Mr. Denkin said to Mr. Crebs before you do or say anything, make sure Mr. Lohuis puts his request in writing. He also told Mr. Crebs that if he is not good enough to be an evaluator, how could he evaluate someone's else's performance. Mr. Denkin stated that he believes that Mr. Crebs has been discriminated against for not providing testimony regarding Mr. Delgado's performance. He stated that he feels that Mr. Crebs'

assignments changed after Mr. Denkin requested this item be placed on the agenda. Mr. Denkin stated that the statistical report supports his allegations.

Mr. Crebs then stated that he did not initiate putting his name on the agenda. He stated that he agreed to allow Mr. Denkin to discuss his assignments and was present at this meeting to personally 'see where it went'. He explained that at the event in question regarding Mr. Delgado he felt he was in a 'damned if you do and damned if you don't' situation. He further explained that his choices were to either to help destroy a colleague and be made out to be a 'rat' within his brethren or be seen as uncooperative by the Commission's representative. He stated that if Mr. Lohuis' opinion that a referees performance is substandard, they why ask Mr. Crebs for corroboration rather than Mr. Borrielli or other Commission staff. Mr. Crebs stated that he does not believe it is the responsibility of fellow referees, judges or timekeepers to make that call. He explained that he is one of the newer referees and yet was asked to judge another referee's performance. He then stated that mention had been made as to whether or not Mr. Crebs felt that his assignments had changed since that event. Mr. Crebs replied that he did not believe that the assignments have changed. He further explained that he hasn't had a plethora of assignments at any time and does not expect to have them now. He added that there should also be some type of written explanation as to how assignments are made.

18.4 Code of Ethics

This item was not heard.

19. COMMITTEE REPORTS – INFORMATION / ACTION

19.1 Arbitration Committee Report

This item was not heard.

19.2 Pension Plan Review Committee Report

This item was not heard.

19.3 Medical and Safety Standards Advisory Committee Report

This item was not heard.

19.3.1 Ringside Physician Pay

This item was not heard.

19.4 Officials Committee Report

This item was not heard.

19.5 Amateur Boxing Committee Report

This item was not heard.

20. AGENDA ITEMS FOR FUTURE MEETINGS

Complaints against Commission employees (closed session)
Medical Insurance Premium Payment Guarantee
Promoter Clinics (Indoctrination Session) Mandatory Requirement
Referee Pay Scale
Mr. Lohuis' System of Bout Approvals

21. COMMISSIONERS' COMMENTS AND / OR RECOMMENDATIONS

Chairman Sauter suggested that the next meeting take place in the afternoon in Santa Ana on September 18, 2003. Mr. Englebrecht stated he would attempt to provide a location at no charge to the Commission.

Commissioner Mears suggested that the issues surrounding Mr. Delgado and Mr. Crebs be discussed at the next scheduled Commission meeting in closed session in anticipation of possible litigation.

22. PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA

Mr. Chuck Hassett mentioned that at the last Commission meeting there was a directive to initiate the new evaluation process by September 1, 2003. He stated that there have been no interim steps made toward this end other than a memo by Mr. Lynch requesting nominations for the Master Officials. He added that another directive was for Mr. Lynch, Mr. Hassett, Mr. Pat Russell, Mr. Denkin and Commissioner Frierson to meet to discuss the current evaluation forms and come up with accurate evaluation criteria and categorization criteria which also has not been done. Commissioner Frierson explained that several of those members have been out of town, but that the meeting would take place in the near future. Mr. Plowman informed the Commission that Mr. Lynch had put forward a request for hiring freeze exemptions for making those persons who are Master Officials, permanent, intermittent Inspectors. Ms. Scuri reminded the audience that it is a State approval process.

Mr. Ed Holmes stated that he had an unfortunate incident in which an event was stopped due to the ambulance requirement issue yet another event was allowed to proceed with the same situation. Mr. Borrielli responded that he was the Supervising Inspector at that particular event that was allowed to continue. He stated that he personally spoke with the Fire Department dispatcher in that jurisdiction and was assured that within 3-7 maximum minutes he could have paramedics on site. He further explained that he was not fully aware that the regulation mandated that the ambulance with at least one paramedic must be on site at all times. He stated that he spoke with Dr. Castanon (the ringside physician) and discussed the situation and the assurance that a paramedic could be on site within 3-7 minutes. He further explained that Dr. Castanon, who is a board certified surgeon with many medical qualifications, informed Mr. Borrielli that he could perform anything that a paramedic could do and more and was willing to take responsibility. Mr. Borrielli stated that the show went on with no incidences. Mr. Borrielli stated he just wanted to inform the Commission that it was his own decision to allow the event to continue and is now fully aware of the Commissions requirements and rules regarding an ambulance and paramedic. Mr. Holmes stated that he was in the same situation and was not shown the same courtesy. Commissioner Mears explained to Mr. Holmes that Mr. Borrielli made a mistake in the permission to allow the event.

The meeting was then adjourned.

The draft minutes were prepared by:

JESSICA FINCH

DATE

The final minutes were prepared by:

JESSICA FINCH

DATE